

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,

Plaintiff,

- against -

COLLECTOR'S COFFEE INC., et al.,

Defendants.

19-CV-4355 (VM)

ORDER

USDC SDNY
DOCUMENT
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DOC #: _____
DATE FILED: 12/04/23

VICTOR MARRERO, United States District Judge.

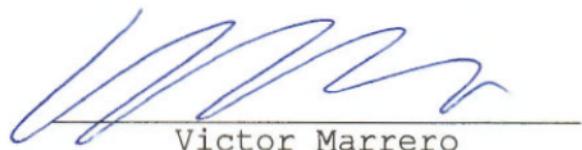
The Court has received the letter from plaintiff Securities and Exchange Commission ("SEC") requesting a pretrial ruling on matters relating to the authenticity of documents produced by parties in this case. (See "Letter," Dkt. No. 1435.) The Court has also received the response by defendant Mykalai Kontilai ("Kontilai"), joined by defendant Collector's Coffee, Inc. ("Collector's Coffee," and together with Kontilai, "Defendants") (see "Response," Dkt. No. 1438) and the SEC's reply thereto (see "Reply," Dkt. No. 1441). The SEC's request to overrule Defendants' objections is hereby **GRANTED**.

Defendants appear to object to the authenticity of documents they themselves produced. The fact that Defendants produced certain documents in response to a discovery request is an admission that those documents existed, were in

Defendants' possession or control, and were authentic. See Braswell v. United States, 487 U.S. 99, 104 (1988). It is puzzling that Defendants now contest those documents' authenticity because counsel cannot recall whether they produced those documents. The documents bear Bates numbers indicating they were a part of one of Defendants' productions, and they are therefore authentic absent evidence suggesting otherwise.

The Court further may take judicial notice of the documents noted in the Letter that are publicly available records of governmental agencies, or that were filed on the docket in this action. See Federal Rule of Evidence 201.

Accordingly, it is hereby **ORDERED** that plaintiff Securities and Exchange Commission's letter entered at Dkt. No. 1435 requesting pretrial rulings on the authenticity of certain trial exhibits is **GRANTED**.



Victor Marrero
U.S.D.J.

Dated: 4 December 2023
New York, New York